

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

MICHAEL J. O'CONNELL, et al.,)
)
 Plaintiffs,)
)
 vs.) No. 4:04-CV-1485 (CEJ)
)
A-OKAY PLUMBING, INC., et al.,)
)
 Defendants.)

MEMORANDUM AND ORDER

This matter is before the Court to determine defendants' liability in damages defendants to plaintiffs for delinquent contributions and dues payments in violation of the parties' labor agreement. On January 26, 2006, the Court entered summary judgment in plaintiffs' favor regarding defendants' liability. However, the Court did not enter a final judgment because plaintiffs' request for damages was unclear. In response to the Court's order, plaintiffs submitted a memorandum clarifying total damages sought. Defendants have not responded, and the time allowed for doing so has expired.

In their summary judgment motion, plaintiffs requested damages in the amount of \$94,846.34, for the period August 2004 through July 2005. They subsequently filed a preliminary injunction motion to compel defendant A-Okay to submit reports and contributions as they came due, beginning October 2005 until entry of final judgment. In that motion they also asserted that defendants' contributions for August and September 2005 were delinquent; however, it was unclear whether plaintiffs sought damages for those

months. Plaintiffs now submit evidence in the form of two affidavits and an exhibit charting the delinquent debts from October 2003 through December 2005.¹

In his affidavit, Terry Flynn, executive director of the welfare education and pension funds for the Plumbers and Pipefitters Association, states that defendants owe \$64,391.99 in contributions, \$200 in liquidated damages, \$2,109.57 in interest, and \$14,690.92 in union dues. These amounts total \$81,392.48. The exhibit charting defendants' debts and payments supports Flynn's affidavit.²

Plaintiffs also submit the affidavit of their attorney, Greg A. Campbell. Campbell states that his firm's hourly billing rate for lawyer services in federal court delinquency matters was \$140.00 per hour in 2004, and \$145.00 per hour in 2005 and 2006. The hourly billing rate for legal assistant services in these matters is \$75.00 per hour. Campbell performed 1.5 and 7.5 hours of service in the instant matter in 2004 and 2005, respectively. Legal assistant Alice Divinny performed 2 hours of service in this matter. Campbell states that plaintiffs will be billed \$1,447.50

¹Plaintiffs previously submitted the collective bargaining agreement with their summary judgment motion. The Court discussed the terms of the agreement in the January 26, 2006 order.

²The amount is less than plaintiffs originally sought because defendants have made some payments since Terry Flynn's earlier affidavits, which were attached to plaintiffs' summary judgment motion on October 5, 2005, and their motion for a preliminary injunction on November 10, 2005.


for legal services, \$150.00 for court costs, and \$43.07. Plaintiffs seek a total of \$1,640.57 in legal fees and costs.

Based upon its review of the record, the Court concludes that plaintiffs are entitled to damages against defendants in the amount of \$83,033.05.

Accordingly,

IT IS HEREBY ORDERED that plaintiffs shall recover damages from defendants in the amount of \$83,033.05.

A separate judgment shall be entered this same date.


CAROL E. JACKSON
UNITED STATES DISTRICT JUDGE

Dated this 16th day of February, 2006.